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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,391	07/31/2003	Paulina Rodgers	0112300-1062	2820
29159	7590	01/24/2006	EXAMINER	
BELL, BOYD & LLOYD LLC P. O. BOX 1135 CHICAGO, IL 60690-1135			NGUYEN, KIM T	
			ART UNIT	PAPER NUMBER
			3713	
DATE MAILED: 01/24/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/633,391

Applicant(s)

RODGERS ET AL.

Examiner

Kim T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-74 is/are pending in the application.
- 4a) Of the above claim(s) 14-16, 33-40 and 66-74 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 17-32 and 41-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/26/04, 1/14/05, 9/1/05
11/18/05, 12/12/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Applicant's election without traverse of Species 1, claims 1-13, 17-30 and 41-65, with generic claims 31-32 are acknowledged. Claims 1-13, 17-32 and 41-65 will be considered, and claims 14-16, 33-40 and 66-74 are withdrawn from consideration. Applicant should cancel non-elected claims in the response to this office action.

Claim Objections

1. Claims 5-6 and 21 are objected to because of the following informalities:
 - a) In claim 5, line 8; claim 6, line 8; and claim 21, line 8, the claimed limitation "a designated award amount" should be corrected to "the designated award amount".
 - b) In claim 5, line 10; claim 6, line 10; and claim 21, lines 10-11, the claimed limitation "a designated number of activations" should be corrected to "the designated number of activations".

Appropriate correction is required.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-13, 17-32 and 41-65 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 15, 31, 40 and 50 of copending Application No. 10/241,255. Although the conflicting claims are not identical, they are not patentably distinct from each other because at least independent claims disclose the same subject matter taught in claims 15, 30, 40 and 50 of the copending Application No. 10/241,255 in broader scope by eliminating the trigger symbol in the reels. Further, the subject matter disclosed in the dependent claims of the present application would have been both well-known and obvious design choice.

3. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Allowable Subject Matter

4. Claims 1-13, 17-32 and 41-65 would be allowable if a terminal disclaimer is filed to overcome the double patenting rejection, set forth in this Office action.

5. The following is a statement of reasons for the indication of allowable subject matter:

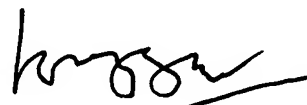
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The prior art of record fails to show or fairly suggests a gaming device and a method of operating a gaming device as set forth in independent claims 1, 17, 31, 41 and 53 in which if after the reels are activated, at least one of the reels includes the wild symbol, but no winning symbol combinations on the reels including that wild symbol, or the wild symbol, but no winning symbol combinations including the wild symbol that provides an award having an award amount equal to or greater than a designated award amount, then at least one of the reels other than the reel having the wild symbol is re-activated for a designated number of activations and an award is provided to a player if one of the winning symbol combinations occurs on the reels during any of the re-activations.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is 571-272-4441. The examiner can normally be reached on Monday-Thursday during business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai, can be reached on 571-272-7147. The central official fax number for the organization where this application or proceeding is assigned is 571-273-8300.

kn
Date: January 12, 2006



Kim Nguyen
Primary Examiner
Art Unit 3713